

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ORGAN VIEW PROPERTIES, LLC
DBA PICACHO HILLS COUNTRY
CLUB,**

Plaintiff,

CIVIL ACTION NO. _____

v.

**SOUTHERN INSURANCE
COMPANY,**

Defendant.

**DEFENDANT SOUTHERN INSURANCE COMPANY'S
NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, Southern Insurance Company (“Defendant”), files its Notice of Removal to the United States District Court for the District of New Mexico, on the basis of diversity of citizenship and amount in controversy and respectfully show:

FACTUAL BACKGROUND

On or about March 12, 2020, Plaintiff Organ View Properties LLC d/b/a/ Picacho Hills Country Club (“Plaintiff”) filed its Original Petition in the matter styled *Organ View Properties LLC d/b/a/ Picacho Hills Country Club v. Southern Insurance Company*; Cause No D-307-CV-2020-00856; pending in the Third Judicial District Court in Doña Ana County, New Mexico, in which Plaintiff made a claim for damages arising out of a dispute as to Defendant’s handling of Plaintiff’s commercial property insurance claim under its insurance policy.

Plaintiff’s Complaint was served on Defendant on April 9, 2020. Defendant filed its Original Answer to Plaintiff’s Original Complaint on May 1, 2020.

DEFENDANT FILES THIS TIMELY NOTICE OF REMOVAL WITHIN 30 DAYS OF RECEIVING SERVICE OF PROCESS AND CITATION. *SEE* 28 U.S.C. §1446(B).

Pursuant to Local Rule 81, Defendant is including legible copies of records and proceedings from the state court.

BASIS FOR REMOVAL

Defendant files this notice of removal within 30 days of being served with Plaintiff's Original Complaint. *See* U.S.C. § 1446(b). This Notice of Removal is being filed within one year of the commencement of this action. *See id.*

Removal is proper based upon diversity of citizenship under 28 U.S.C. § 1332. Under 28 U.S.C. § 1332, federal courts have original jurisdiction over controversies between citizens of different states if the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.¹

The Parties Are Of Diverse Citizenship

Plaintiff is, and was at the time the lawsuit was filed, a New Mexico resident with its principal place of residence in New Mexico, and thus, is a citizen of New Mexico. *See* Plaintiff's Original Complaint at ¶ 1.

For organizations, citizenship lies in every state where it has been incorporated or has its principal place of business.² Defendant Southern Insurance Company is, and was at the time the lawsuit was filed, a limited liability company with its principal place of business in Texas. Southern Insurance Company is a citizen of the State of Texas for diversity purposes.

Because Plaintiff is a resident of New Mexico and Defendant's citizenship lies in Texas, the parties are completely diverse for purposes of diversity jurisdiction.

¹ 28 U.S.C. § 1332(a).

² 28 U.S.C. §1332(c)(1).

The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction.

This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiff alleges that Defendant is liable for negligence, breach of insurance contract, violation of the New Mexico Unfair Claims Practices Act and Bad Faith.

Plaintiff is seeking monetary relief over \$75,000.00, meaning the amount in controversy in this case exceeds the jurisdictional requirements.

THE REMOVAL IS PROCEDURALLY CORRECT

Defendant answered Plaintiff's Original Complaint on May 1, 2020. This notice of removal is filed within the 30-day time period required by 28 U.S.C. § 1446(b).

Venue is proper in this District under 28 U.S.C. §1446(a) because this District include the county in which the state action has been pending and because the events giving rise to Plaintiff's claims allegedly occurred in this District.

Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

Pursuant to 28 U.S.C. § 1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiff, the adverse party.

Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Harris County District Court, promptly after Defendant files this Notice.

CONCLUSION

Based upon the foregoing, the exhibits submitted in support of this Removal and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant Southern Insurance Company hereby removes this case to this Court for trial and determination.

Respectfully Submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.³

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2020, a true and correct copy of the foregoing was forwarded to all counsel of record via electronic notice and/or facsimile in accordance with the Federal Rules of Civil Procedure.

/s/ Jennifer M Kearns
JENNIFER M. KEARNS

³ Ms. Kearns and Mr. Harmon are licensed in Texas; Ms. Drennan is licensed in both New Mexico and Texas.